



DEPARTMENT OF CORRECTIONS POLICIES AND PROCEDURES

Policy No.: DOC 4.2.4	Subject: JUVENILE DETENTION
Chapter 4: FACILITY/PROGRAM SERVICES	Page 1 of 3
Section 2: Classification	Revision Date: Feb. 2, 1998
Signature: /s/ by Director Rick Day 2/3/98	Effective Date: Feb. 29, 1996

I. POLICY:

It is the policy of the Montana Department of Corrections to provide a standardized manner in which to detain juvenile offenders under its jurisdiction while awaiting a more permanent disposition.

II. AUTHORITY:

41-5-206, MCA. Transfer to Criminal Court Prior to Prosecution
41-5-311, MCA. Youth Not to Be Detained in Jail - Exceptions - Time Limitations
41-5-303, MCA. Rights of Youth Taken Into Custody - Questioning - Hearing for Probable Cause - Detention
41-5-523, MCA. Disposition of Delinquent Youth and Youth in Need of Supervision
52-5-128, MCA. Detention of Youth who Violates Aftercare Agreement
20.9.307, ARM. Detention

III. DEFINITIONS:

Detention means the holding or temporary placement of a youth in the youth's home under home arrest or in a facility other than the youth's own home for the purpose of ensuring the continued custody of the youth at any time after the youth is taken into custody.

96-Hour Detention Facility means a physically restrictive facility, licensed by the state, which provides secure detention for a period of time not to exceed 96 hours excluding weekend and holidays.

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Long-Term Detention Facility means a physically restrictive facility, licensed by the state, which provides secure detention and programming for offenders requiring incarceration in excess of 96 hours.

Certificate to Detain means a warrant issued by the Department authorizing the placement of a juvenile offender in a detention facility.

Standard Metropolitan Statistical Area means a jurisdiction with a population of at least 100,000.

Youth means an individual who is less than 18 years of age without regard to sex or emancipation.

IV. PROCEDURES:

- A. A juvenile offender under the supervision of the Department who violates the terms and conditions of a Parole Agreement, or has absconded from a juvenile facility/program, may be detained by Department or law enforcement upon issuance of a Certificate to Detain.
- B. A juvenile offender may not be detained pending a revocation hearing except when detention is required to protect the public, the offender, property or there is risk of the offender absconding. An offender being detained pending a hearing must be detained in one of the following:
 1. A licensed foster home or a home approved by the court;
 2. A facility operated by a licensed child welfare agency.
 3. A district youth guidance home or other youth facility or center which is under the directions or supervision of the court, within public authority or of a public agency approved by the court; or

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4. A licensed 96-hour or long-term county operated detention facility.
- C. A juvenile offender may not be detained or otherwise placed in a jail or other adult detention facility except as provided by state law. Exceptions are as follows:
1. For a period of time, not to exceed six hours for the purpose of identification, processing, or transfer to an appropriate detention facility or shelter care facility; or
 2. For a period of time, not to exceed 24 hours, excluding weekends and legal holidays, if the youth is awaiting a probable cause hearing pursuant to state law. This exception applies only if:
 - a) The court having jurisdiction over the youth is outside a Standard Metropolitan Statistical Area;
 - b) Alternative facilities are not available or alternative facilities do not provide adequate security; and
 - c) The youth is kept in an area that provides physical, as well as sight and sound, separation from adults accused or convicted of criminal offenses.
- D. Admittance and retention requirements shall comply with standard procedures mandated through detention facility operations policies.
- E. Offenders who are 18 years of age or older may not be detained in a juvenile detention facility.
- F. Juvenile offenders shall be detained only until such time that arrangements can be made to initiate a more permanent disposition.

V. CLOSING:

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Questions concerning this policy shall be directed to the Probation and Parole Regional Supervisor.